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In re Application of
MEULMAN, Dirk G. *et al*
U.S. Application No.: 09/380,695
PCT No.: PCT/EP98/01239
Int. Filing Date: 03 March 1998
Priority Date: 05 March 1997
Docket No.: 0/97263 US
For: USE OF A 7 α -METHYL-17 α -ETHYNL-
ESTRANE DERIVATIVE . . .

DECISION

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 05 December 2000 and "Petition to Reconstruct Lost Patent File" submitted on 16 May 2001.

BACKGROUND

On 14 August 2000, a decision granting applicants' petition to correct the PCT number listed on the original transmittal letter was mailed. Nevertheless, the application was abandoned because there was no indication of the correct international application number provided prior to the expiration of thirty months from the earliest claimed priority date. Applicants were advised to file a petition to revive under 37 CFR 1.137(a) or (b) along with the appropriate fee and a new preliminary amendment annotating the proper international application number.

On 05 December 2000, applicants filed a petition to revive pursuant to 37 CFR 1.137(b) and a new preliminary amendment annotating the proper PCT number.

On 16 May 2001, applicants submitted a petition to reconstruct the lost file after receiving notice that the above-captioned application was missing. The petition was accompanied by, *inter alia*, a complete copy of the application.

DISCUSSION


Petition to Reconstruct Lost Patent File

The above-captioned application has been located. All of the appropriate papers are in the file. Therefore, applicants' request to reconstruct the above-captioned application file submitted on 16 May 2001, has been **DISMISSED AS MOOT**.

Petition to Revive

In the 05 December 2000 petition under 37 CFR 1.137(b), applicants state that "[t]he entire delay in the filing of a required response from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). The proper petition fee was also submitted. No terminal disclaimer is required. The basic national fee was previously paid. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

However, an oath or declaration of the inventors pursuant to 35 U.S.C. 371(c)(4) was not provided. Accordingly, the application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) for failing to provide a declaration in compliance with 37 CFR 1.497 (a) and (b) and a surcharge fee of \$130.00 pursuant to 37 CFR 1.492(e).



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